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Patent

Attorney Docket No. ITW7510.054

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Stein et al.
Serial No. : 10/604,459
Filing Date : 7/23/2003
For : METHOD AND APPARATUS TO ADAPTIVELY
COOL A WELDING-TYPE SYSTEM
Group Art No. : 1725
Examiner : Kevin P. Kems

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

I hereby certify that, on the date shown below, this correspondence is being:

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37 CFR 1.10

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Date: April 7, 2006

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**REQUEST FOR RECONSIDERATION OF THE PETITION UNDER
37 CFR 1.181 TO WITHDRAW THE FINALITY OF THE OFFICE ACTION
MAILED JULY 19, 2005 AND PETITION UNDER 37 CFR 1.181
REQUESTING WITHDRAWAL OF THE HOLDING OF ABANDONMENT**

Dear Sir:

Responsive to the Decision on Petition of January 3, 2006 and March 15, 2006, Petitioner hereby requests reconsideration of the Petitions filed September 22, 2005 and February 3, 2006 and entry and consideration of the following remarks.

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REMARKS

In the Decision, the Director wrote that “[a]s stated above, a petition will not act as a stay of any period for reply or any other proceedings. Applicant still had an obligation to respond to the outstanding office action, either by amendment or by other appropriate action. No response was filed and the application was properly abandoned by the examiner.”

It is noted that the decision is based on an incorrect assumption. Applicant did indeed file a Response and Amendment on September 22, 2005. A review of the file history clearly indicates as much. The Final Office Action was mailed July 19, 2005, and Applicant filed its Response/Amendment September 22, 2005.

Because the Decision is based on an incorrect assumption of fact, Applicant renews its Request for Reconsideration of its Petition originally filed September 22, 2005, and its Request for Reconsideration filed February 3, 2006.

It is also noted, with regard to the underlying issue of the premature finality of Office Action mailed July 19, 2005, in the related case (US. Ser. No. 10/605,546), Applicant prevailed in its Pre-Appeal Brief Conference Request receiving a favorable Panel Decision on March 27, 2006. The Examiner used the same foreign language reference in both cases. Accordingly, the use of the foreign language reference was held to not show what the Examiner stated it showed. Not only was the Examiner incorrect by making the finality premature, the Examiner was incorrect in the underlying “interpretation” of the French language reference.

Request to Withdraw Holding of Abandonment:

According to the Notice of Abandonment, the present application was abandoned for “Applicant’s failure to timely file a proper reply to the Office letter mailed 19 July 2005.” The Notice of Abandonment further indicates that “A proposed reply was received 22 September 2005, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection.”

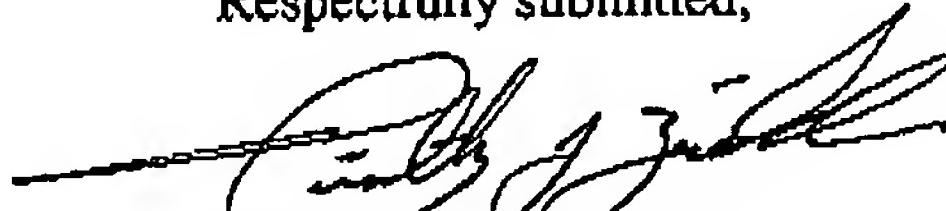
Responsive to the Office Action mailed July 19, 2005, Applicant filed a Response on September 22, 2005, within three months after the mailing of the Office Action. Also attached is Applicant’s facsimile transmission receipt. As shown in the attached documents, Applicant’s submission of September 22, 2005 was a timely filed response to the Office Action mailed July 19, 2005 -- an Office Action that should never have been Final.

Stein et al.

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Accordingly, for the reasons set forth above, Applicant requests withdrawal of the holding of abandonment and issuance of the above-captioned matter. Furthermore, in order to avoid any further delay in the issuance of the above-captioned application, Applicant requests that the Office telephone the undersigned to expedite any unresolved matters with regard to this application.

Respectfully submitted,



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Dated: April 7, 2006
Attorney Docket No.: ITW7510.054

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